Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-201

STATE OF OREGON,

Petitioner,

v.

CARL RAY MATHIASON,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of the State of Oregon

BRIEF FOR RESPONDENT IN OPPOSITION

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OPINIONS BELOW

Petitioner's statement is accepted.

JURISDICTION

Petitioner's statement is accepted.

QUESTION PRESENTED

The suspect of a burglary is asked for an interview and agrees to come to the police station. He is not advised of his rights under *Miranda v. Arizona*.[1] At the outset of the interview he is told that he is not under arrest and can leave at any time. The questioning takes place in a closed room. The interviewing officer accuses him of the crime and falsely tells him

[1] 384 US 436, 86 S Ct 1602, 16 L Ed 2d 694 (1966).

his fingerprints were found at the scene. Is the suspect in custody for purposes of *Miranda*?

CONSTITUTIONAL PROVISIONS INVOLVED

Petitioner's statement is accepted.

STATEMENT OF THE CASE

Petitioner's statement is accepted with the following supplemental summary of the record:

Before Mathiason went to the police station a friend, Eddy Perrine, was visiting him at his home. Before 4:00 and 4:20 pm Mathiason drank two quarts of beer. Perrine sensed that Mathiason was scared. (M/S Tr 29-33)

REASONS FOR DENYING THE WRIT

A. **Contrary to the claim of Petitioner, the Oregon Supreme Court has not ruled that all station-house interviews are necessarily custodial.**

The opinion of the Oregon Supreme Court, as reprinted in petitioner's petition, nowhere makes the bald statement that all station-house interviews must be considered custodial. Instead, the opinion shows a careful consideration of all the pertinent historical facts of this case, with the final conclusion that respondent was actually in custody for purposes of *Miranda v. Arizona, supra,* during the questioning.

B. **The facts of this particular case indicate that Respondent was in custody for purposes of *Miranda v. Arizona, supra,* and the Oregon Supreme Court has correctly decided this case.**

Although respondent agreed to come to the station house, he looked forward to the interview with some trepidation. His presence at the station house was voluntary only in the sense that he agreed to have the interview take place there; he certainly did not volunteer for the interview. The interview as conducted contained many of the elements of custody and coerciveness discussed by this Court in *Miranda*: privacy and isolation with the interrogator, psychological pressure, police-dominated atmosphere, subtle trickery. All doors to the room were shut. A police radio could be heard in the background. The officer exuded confidence in the guilt of respondent, and lied to him about the existence of incriminating evidence, *i.e.*, finding his fingerprints at the scene of the crime. The fact that the officer told respondent he was not under arrest and could leave at any time makes little difference in light of the surroundings and the coercive nature of the interrogation. Respondent was in custody and should have been given the proper warnings.

CONCLUSION

The Oregon Supreme Court decided this case correctly, both on principles of law and the facts of this particular case. Further review is unwarranted.

Accordingly, and for the reasons given above, the petition for a writ of certiorari should be denied.

Respectfully submitted,
GARY D. BABCOCK
Public Defender
J. MARVIN KUHN
Chief Deputy Public Defender
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November, 1976